

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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| In the Matter of |) | |
| |) | |
| Revision of the Commission's Rules to Ensure |) | |
| Compatibility with Enhanced 911 Emergency |) | CC Docket No. 94-102 |
| Calling Systems |) | |
| |) | |
| Cingular Wireless LLC's Petition for |) | |
| Reconsideration |) | |
| |) | |

Order

Adopted: December 13, 2002

Released: December 13, 2002

By the Chief, Wireless Telecommunications Bureau:

1. On July 6, 2001, Cingular sought relief from several aspects of the Commission's E911 Phase II implementation requirements with respect to its GSM network, including the handset deployment schedule and the initial accuracy requirements.¹ With its request for waiver, Cingular proposed an E911 Phase II implementation plan whereby it would deploy E-OTD technology throughout its GSM network and a "safety net" location technology solution for customers without E-OTD handsets. On October 2, 2001, the Commission granted Cingular's request for waiver subject to compliance with a number of conditions, including the following: that, by October 1, 2001, Cingular begin selling and activating E-OTD capable handsets; that, by December 31, 2001, at least 25 percent of all new handsets activated be E-OTD capable; that, by March 31, 2002, at least 40 percent of all new handsets activated be E-OTD capable; that, by June 30, 2002, at least 65 percent of all new handsets activated be E-OTD-capable; that, by September 30, 2002, 100 percent of all new digital handsets activated be E-OTD capable; and that, by December 31, 2005, 95 percent of all subscriber handsets in service be E-OTD capable.² Beyond these handset deployment benchmarks, the Commission also imposed additional conditions on Cingular's waiver, including network deployment benchmarks, accuracy, and reporting requirements.³

2. On November 13, 2001, Cingular filed a Petition for Reconsideration of the order that

¹ Cingular Wireless LLC Petition for Limited Waiver of Sections 20.18(e)-(h), CC Docket No. 94-102 (filed July 6, 2001). Cingular's July 6 petition also requested permission to deploy a switch-based location technology in its Time Division Multiple Access (TDMA) network. Subsequently, Cingular negotiated a compliance plan for its TDMA network through the consent decree process. *See* In the Matter of Cingular Wireless LLC, *Order*, FCC 02-132 (rel. May 9, 2002).

² Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, *Order*, 16 FCC Rcd 18305 (2001) (*Cingular Waiver Order*).

³ On September 28, 2001, Cingular filed a letter notifying the Commission that it would be unable to meet the handset deployment benchmarks proposed in its July 6 waiver request, including the October 1 deadline. Letter from Brian Fontes, Vice-President-Federal Relations, Cingular, to Magalie Roman Salas, Secretary, Federal Communications Commission, CC Docket No. 94-102 at 1.

granted its waiver. The Petition challenged several aspects of the order, including the decision not to consider the September 28th letter notifying the Commission that Cingular would not be able to meet the handset deployment benchmarks proposed in its waiver request.⁴ In the reconsideration petition, Cingular proposed that the Commission extend the E-OTD handset deployment benchmarks that it had adopted in the waiver order.⁵ Subsequently, on October 1, 2002, Cingular filed a Supplement to its Third Quarterly E911 Implementation Report. In its Supplement, Cingular indicated that, because of uncertainties over the ability of E-OTD to satisfy the Commission's October 1, 2003 deadline for 50m/150m accuracy, it had suspended shipment of E-OTD infrastructure equipment beyond what was currently deployed.⁶ On December 13, 2002, Cingular filed a Supplement to its Fourth Quarterly E911 Implementation Report, notifying the Commission that it had decided to implement a network-based E911 Phase II solution, rather than E-OTD, in its GSM network.⁷

3. Here, we treat the portion of Cingular's reconsideration petition that proposes revised handset deployment benchmarks as a severable request for additional extension of time in which to meet the benchmarks, which the Bureau may appropriately address separately from the other issues raised in Cingular's petition for reconsideration that remain pending before the Commission. Because Cingular has informed the Commission that it has decided not to implement E-OTD in its GSM network, we conclude that it is no longer appropriate to address Cingular's pending request for additional time in which to meet the handset deployment benchmarks and we dismiss that request as moot. We refer issues regarding Cingular's compliance with its Phase II obligations under its existing compliance plan to the Enforcement Bureau for possible enforcement action.

4. Accordingly, IT IS ORDERED THAT, pursuant to Sections 4(i) and 5(c) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 155(c), and the authority delegated pursuant to sections 0.131 and 0.331 of the Commission's rules, 47 C.F.R. §§ 0.131, 0.331, Cingular's November 13, 2001 request for extension of the E-OTD handset deployment benchmarks is DISMISSED to the extent stated herein.

FEDERAL COMMUNICATIONS COMMISSION

Thomas J. Sugrue

Chief, Wireless Telecommunications Bureau

⁴ Cingular Wireless LLC Petition for Reconsideration, CC Docket No. 94-102 (filed Nov. 13, 2001) (*Cingular Reconsideration Petition*).

⁵ *Cingular Reconsideration Petition* at 15-16. Under Cingular's proposed revised plan, one E-OTD capable handset would be available for sale by September 1, 2002; 50 percent of all GSM handsets sold would be E-OTD capable by February 28, 2003; 100 percent of all GSM handsets sold would be E-OTD capable by June 30, 2003; and 95 percent of GSM customers would have location capable handsets by December 31, 2005.

⁶ Cingular Wireless LLC Supplement to Third Quarterly E911 Implementation Report and Petition for Reconsideration, CC Docket No. 94-102 (filed Oct. 1, 2002) at 1-2.

⁷ Cingular Wireless LLC Supplement to Fourth Quarterly E911 Implementation Report for GSM Networks, CC Docket No. 94-102 at 2 (filed Dec. 13, 2002).